

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-312-E - ORDER NO. 96-850
DECEMBER 6, 1996

IN RE: Laurens Electric Cooperative, Inc.,)	ORDER
)	DENYING
Petitioner,)	RECONSIDERATION
vs.)	AND/OR REHEARING
)	
Duke Power Company,)	
)	
Respondent.)	
)	
)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Reconsideration and/or Rehearing in this matter filed by Duke Power Company (Duke). We have examined each ground as set forth by Duke, and we conclude that the Petition must be denied.

First, Duke cites the case of Carolina Power & Light Company v. Pee Dee Electric Cooperative, Inc., Order No. 80-696, as mandating that the premises in the present case have been transformed to the point where old premises can be transformed into new premises, and new "initial" service may be provided. Duke attempts to show that that decision laid out the manner in which this could be done.

In our Order No. 96-743 at pages 8 and 9, we properly noted that Order No. 80-696 held that the original electric supplier

should serve the premises, despite the fact that the premises were to some degree transformed. The Commission held in that case that premises initially requiring electric service may not necessarily be transformed by additional conversion. Therefore, Duke's reliance on Order No. 80-696 is misplaced.

Next, Duke discusses the Commission statement that, "We do not believe that the further anticipated construction may convert the premises to such a degree that a new electric supplier may once again 'initially' serve the premises in question." Duke refers to the statement as "speculation," and an indication that Order No. 96-743 was interlocutory. Duke urges the Commission to find that Order No. 96-743 was an interim Order, and that Duke, upon completion of the proposed construction of Carolina Coil, could petition the Commission to reconsider its finding that Laurens Electric Cooperative, Inc. (Laurens) should provide permanent service on the contested premises.

The Commission would note that the intent of Order No. 96-743 was that it was to be a final Order. We would note that we considered the premises as they were to be constructed and, therefore, took into account how the premises would appear at a later date, once finished. The Commission still concluded that Laurens was entitled to serve the premises, whether it would be in the initial phases of construction, or in the final construction phase, where the plant is completed. This proposition of Duke is therefore fully rejected.

Paragraph number 5 of Duke's Petition alleges that our Order

No. 96-743 misapprehends the evidence of record concerning electric energy demand of the premises of the legal effect thereof, which, according to Duke, is a basis for Duke's right to serve the premises. Duke then states that since the initial connected load will exceed 750 KW, the customer requested Duke's service in writing, and a portion of the existing building lies within the service territory of Duke, Duke is somehow entitled to serve the premises in question pursuant to Section 58-27-620 (2). All of these factors are irrelevant, if one understands the Commission holding in Order No. 96-743. Again, we would point out that the statute, as stated, talks about industrial premises "initially" requiring electric service. Given our holding in Order No. 96-743, and our rejection of Duke's evidence of transformation to show a second "initial" service, we must reject this contention as ignoring the very important word "initially." Since Laurens "initially" served the premises, Duke may not "initially" serve the premises now.

Next, Duke alleges that the Order should have logically stated that the definition of "premises" supports Duke's argument on service. Again, this is not the case. Once the Commission had determined what the word "initially" means, other arguments as to other statutes were unavailing. We must reject this proposition.

Duke further states that the Order contains an inappropriate conclusion of law that states that "it is clear from the affidavits and other materials in this case that Carolina Coil wants to operate out of the already constructed building of Dean

Steel Buildings, Inc." Duke states that this is not supported by the evidence of record, in that temporary power is to be provided to the existing premises for construction purposes which construction will lead to the reconstituted premises. We disagree. By making the statement in Order No. 96-743 that we did, we simply meant that the existing building would constitute part of the premises for the new business, and would be incorporated into the new business. We intended to convey no other meaning. The position stated by Duke is therefore unavailing.

With regard to Duke's next ground, Duke notes that the Order does not contain a sufficient evidentiary basis to support a hearing being held on an exigent basis and the issuance of a Cease and Desist Order. Nothing can be further from the case. Page 4 of Order No. 96-743 notes that the new poles and wiring constitute a condition specifically in violation of the National Electrical Safety Code, in that several Duke poles are installed too close to the Laurens conductor. We believe this to be a safety hazard. We further believe that this violation of safety rules clearly requires an exigent hearing and relief, and that our action was appropriate under the circumstances, including the issuance of a Cease and Desist Order.

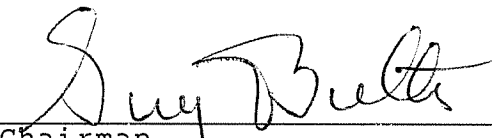
Paragraph 9 of the Petition for Reconsideration and/or Rehearing is inappropriate in that it notes that all of the possible violations of the National Electrical Safety Code would require further tests in order to make a final determination on

their safety concerns. This is not the case. The Order quotes the affidavit of Keith J. Mara, which points out a specific violation of the 1993 National Electrical Safety Code, Rule 234 B1. Although the Order does mention other possible violations, the stated violation is a clear violation of a safety Code that requires no further testing.

In conclusion, Duke lists a number of alleged areas in stating that its substantial rights have been prejudiced because of the findings, inferences, conclusions and decisions of the Commission. These are the standard points found in S. C. Code Ann. Section 1-23-380 (A)(6)(Supp. 1995). We have examined each of these potential grounds and we discern no error based on any of these bases. We believe that our Order No. 96-743 was fully supported in law and fact, and that no modification of our prior Order is warranted, nor is a reconsideration and/or rehearing. The Petition of Duke Power Company is therefore denied.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)